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SUBJECT: FEDERATED STATES OF MICRONESIA -- 2009 TIP

REPORT: PRESS GUIDANCE AND DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

¶1. This is an action cable; see paras 5 through 7 and 10.

¶2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

¶3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of FSM of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of FSM and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/not precede the Secretary's release at 10:00 am EDT on June 16.

¶4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

¶5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of FSM of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

¶6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they

may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of FSM's country narrative in the 2009 TIP Report:

Federated States of Micronesia (Tier 2 Watch List)

The Federated States of Micronesia (FSM) is a source country for some women trafficked to Guam for the purposes of commercial sexual exploitation, and possibly a destination for women from the People's Republic of China (PRC) trafficked for the purposes of commercial sexual exploitation. The FSM may be a destination country for a few men and women from other Pacific nations trafficked for the purpose of forced labor. In one reported case, a small group of young women in the state of Chuuk were lured by job opportunities in the service and hospitality sectors with

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salaries unavailable locally to the U.S. Territory of Guam. Instead of working as store clerks or waitresses, however, the women were forced to engage in prostitution. Brothel owners reportedly confiscated their passports and physically harmed the victims to ensure their obedience. Very little data on human trafficking in FSM exists, as the government has not conducted any relevant investigations, studies, or surveys on the issue. Anecdotal reporting suggests that few victims are trafficked within or outside the FSM.

The Government of the Federated States of Micronesia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite significant overall efforts, the government has not provided evidence of vigorous efforts to identify trafficking victims and to prevent trafficking incidents by educating the public about the dangers of trafficking; therefore FSM is placed on Tier 2 Watch List. In the two police academy classes that have taken place since 2007, anti-Trafficking in Persons techniques were a major part of the curriculum.

Recommendations for FSM: Develop and implement a comprehensive federal anti-human trafficking law; create or support campaigns to educate and inform the public about the dangers of trafficking; monitor the practices of overseas employment recruiters, and investigate recruiters who may be involved in trafficking; and develop an internal structure which ensures victims access to protective services.

Prosecution

FSM national police has jurisdiction over trafficking issues, although no specific or comprehensive federal laws prohibit human trafficking or trafficking-related offenses such as slavery, forced labor, or forced prostitution. Each of the four states could prosecute trafficking offenses under related laws prohibiting false imprisonment, criminal coercion, kidnapping, and even making threats.⁸ Penalties for trafficking offenders under these laws range from five to ten years imprisonment and are sufficiently stringent and commensurate with penalties for other serious crimes, such as rape. The government's Transnational Crime Unit (TCU), part of the Pacific Transnational Crime network, was the main conduit for general law enforcement information coming from

international sources. The Unit had regular contract with the FBI and the Australian Federal Police. FSM police cooperated with foreign law enforcement officials investigating the case of the women trafficked from Chuuk to a brothel in Guam, where prosecution of the illegal brothel owners for trafficking began in early 2009. FSM reportedly began an investigation into the activities of the Micronesian citizen who recruited the women in Chuuk and is believed to also have been trying to recruit women in the state of Pohnpei. Law enforcement agencies operated under significant resource, personnel, and capacity constraints.

Protection

During the reporting period, the government did not identify any trafficking victims within FSM's borders, and therefore did not provide specific assistance to victims of trafficking, though it ensured that identified victims would have access to limited, general protective services provided by government agencies. No NGOs provide victim services independently or in cooperation with the government. FSM has no laws specifically protecting trafficking victims or witnesses, although general material witness laws give the government the right to detain witnesses for their own protection. Effective due process procedures in the FSM criminal justice system generally ensured that the rights of all victims of crime were respected and protected. While no specific civil remedy for trafficking victims is spelled out in the state or national codes, each state's code does provide general redress for personal injuries caused by another. Victims may bring personal injury civil suits against traffickers, although no suits have ever been filed. The law did not provide legal alternatives to the removal of foreign victims to countries where they faced hardship or retribution.

Prevention

The government made no efforts to prevent trafficking or increase the public's awareness of trafficking risks in FSM and the region during the reporting period. Evidence and anecdotal reports suggest that the current number of internal or transnational trafficking victims is relatively low; the government's limited resources were thus often directed to meet more emergent priorities. The government, however, did initiate anti-Trafficking in Persons training for new police

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recruits in the last two police academy classes. FSM supports no anti-trafficking task forces or working groups. The government has run no campaigns aimed at reducing the demand for commercial sex acts. FSM has not ratified the 2000 UN TIP Protocol.

¶9. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in

which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 13. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as

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Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of

trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or though the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why is Micronesia included in the Report this year? Why was it given a ranking of Tier 2 Watch List?

A: Micronesia was ranked on the 2009 TIP Report because there is evidence that it is a country of origin, transit, or destination for victims of severe forms of trafficking. Micronesia was placed on Tier 2 Watch List because the Government of the Federated States of Micronesia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite significant overall efforts, the government has not provided evidence of vigorous efforts to identify trafficking victims and to prevent trafficking incidents by educating the public about the dangers of trafficking; therefore FSM is placed on Tier 2 Watch List.

Q2: What is the nature of the trafficking problem in FSM?

A: FSM is a source country for some women trafficked to Guam for the purposes of commercial sexual exploitation, and possibly a destination for women from the People's Republic of China trafficked for the purposes of commercial sexual exploitation. It may also be a destination country for a few men and women from other Pacific nations trafficked for the purpose of forced labor. In one reported case, a small group of young women in the state of Chuuk were lured by job opportunities in the service and hospitality sectors with salaries unavailable locally to the U.S. Territory of Guam. Instead of working as store clerks or waitresses, however, the women were forced to engage in prostitution. Brothel owners reportedly confiscated their passports and physically harmed the victims to ensure their obedience. Anecdotal reporting suggests that few victims are trafficked within or from FSM. Very little data on human trafficking in FSM exists, however, as the government has not conducted any relevant investigations, studies, or surveys on the issue.

Q3: What measures can FSM take over the next year to improve its anti-trafficking fight?

A: The FSM government could: develop and implement a comprehensive federal anti-human trafficking law; create or support campaigns to educate and inform the public about the

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dangers of trafficking; monitor the practices of overseas employment recruiters, and investigate recruiters who may be involved in trafficking; and develop an internal structure which ensures trafficking victims, access to protective services.

¶12. The Department appreciates posts, assistance with the preceding action requests.

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